REMARKS

In the Office action dated July 12, 2005, claims 24-42 stand rejected. Claims 24-34 and 37-42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative under 35 U.S.C. § 103(a) as obvious over, U.S. Patent No. 6,030,442 issued to Kabra et al. ("Kabra"). Claims 24-31, 33-35 and 37-42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative under 35 U.S.C. § 103(a) as obvious over, U.S. Patent No. 5,854,078 issued to Asher et al. ("Asher"). Claims 24-34 and 37-42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative under 35 U.S.C. § 103(a) as obvious over, U.S. Patent No. 3,900,030 issued to Bashan ("Bashan"). Claims 24-34 and 37-42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative under 35 U.S.C. § 103(a) as obvious over, European Patent Application EP 0 301 753 ("EP '753"). Claim 35 stands rejected under 35 U.S.C. § 103(a) as obvious over Kabra in view of Asher. Claim 35 stands rejected under 35 U.S.C. § 103(a) as obvious over Bashan or EP '753 in view of U.S. Patent No. 4,828,710 issued to Itoh et al. ("Itoh"). Claim 36 stands rejected under 35 U.S.C. § 103(a) as obvious over Bashan in view of U.S. Patent No. 5,609,586 issued to Zadini et al. ("Zadini"). Claim 36 stands rejected under 35 U.S.C. § 103(a) as obvious over EP '753 in view of U.S. Patent No. 5,538,500 issued to Peterson ("Peterson").

Applicants hereby amend independent claims 24 and 42, in compliance with 37 C.F.R. § 1.121(c). Claims 24 and 42 have been amended to clarify that the water permeable layer and the gel particles are separate claim elements. Applicants respectfully submit that no new matter has been introduced by the present Amendment and Response.

In view of the previously presented amendments and following remarks, Applicants respectfully request reconsideration and withdrawal of all grounds of objection and rejection.

1. Rejection of Claims 24-34 and 37-42 under 35 U.S.C. § 102(b) - Kabra

Claims 24-34 and 37-42 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Kabra. For a claim to be anticipated under 35 U.S.C. § 102(b), the reference must disclose each and every limitation in the claim. Applicants respectfully submit that Kabra does not disclose every claim element of the claimed invention as presently amended. Specifically, Kabra does not disclose, at least, a water permeable layer and gel particles disposed in the water permeable layer, as described in, for example, claims 24 and 42.

Briefly, Kabra describes a reversibly responsive gel. (See Kabra, Abstract, 1st sentence). Kabra does not disclose gel particles disposed in a separate water permeable layer. Accordingly, Applicants respectfully submit Kabra fails to anticipate the present invention under 35 U.S.C. § 102(b). Applicants thus respectfully submit that claims 24 and 42 are in condition for allowance. Claims 25-41 depend directly from amended claim 24. For the above-mentioned reasons regarding claim 24, Applicants submit that these claims also are in condition for allowance.

2. Rejection of Claims 24-34 and 37-42 under 35 U.S.C. § 103(a) - Kabra

Claims 24-34 and 37-42 have been rejected under 35 U.S.C. § 103(a) as being obvious over Kabra. For the rejection under 35 U.S.C. § 103(a) to be proper, the reference alone or in combination with another reference must teach or suggest all of the claim limitations. Applicants respectfully submit that Kabra does not teach or suggest every claim element of the invention as presently amended.

Specifically, as described above with respect to claim 24, Kabra does not teach or suggest, at least, a water permeable layer and gel particles disposed in the separate water permeable layer, as described in, for example, claims 24 and 42. Applicants respectfully submit that Kabra does not teach or suggest every claim element of the amended claimed invention.

Applicants thus submit that claim 24 and 42 are in condition for allowance. Claims 25-41 depend directly from amended claim 24. For the above-mentioned reasons regarding claim 24, Applicants submit that these claims also are in condition for allowance.

3. Rejection of Claims 24-31, 33-35 and 37-42 under 35 U.S.C. § 102(b) - Asher

Claims 24-31, 33-35 and 37-42 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Asher. For a claim to be anticipated under 35 U.S.C. § 102(b), the reference must disclose each and every limitation in the claim. Applicants respectfully submit that Asher does not disclose every claim element of the claimed invention as presently amended. Specifically, Asher does not disclose, at least, a water permeable layer and gel particles disposed in the water permeable layer, as described in, for example, claims 24 and 42.

Briefly, Asher describes a crystalline colloidal array polymerized within a hydrogel. (See Asher, Abstract, 1st sentence). Further, Asher discloses the hydrogel attached to, for example, the end of a fiberoptic to measure changes in the diffraction wavelengths of the crystalline colloidal array within the hydrogel. Asher does not describe the fiberoptic as being water permeable, nor are the gel particles disposed in a water permeable layer. Accordingly, Applicants respectfully submit Asher fails to anticipate the present invention under 35 U.S.C. § 102(b). Applicants thus respectfully submit that claims 24 and 42 are in condition for allowance.

Claims 25-41 depend directly from amended claim 24. For the above-mentioned reasons regarding claim 24, Applicants submit that these claims also are in condition for allowance.

4. Rejection of Claims 24-31, 33-35 and 37-42 under 35 U.S.C. § 103(a) - Asher

Claims 24-31, 33-35 and 37-42 have been rejected under 35 U.S.C. § 103(a) as being obvious over Asher. For the rejection under 35 U.S.C. § 103(a) to be proper, the reference alone or in combination with another reference must teach or suggest all of the claim limitations. Applicants respectfully submit that Asher does not teach or suggest every claim element of the invention as presently amended.

Specifically, as described above with respect to claim 24, Asher does not teach or suggest, at least, at least, a water permeable layer and gel particles disposed in the separate water permeable layer, as described in, for example, claims 24 and 42. Applicants respectfully submit that Asher does not teach or suggest every claim element of the amended claimed invention.

Applicants thus submit that claim 24 and 42 are in condition for allowance. Claims 25-41 depend directly from amended claim 24. For the above-mentioned reasons regarding claim 24, Applicants submit that these claims also are in condition for allowance.

5. Rejection of Claims 24-34 and 37-42 under 35 U.S.C. § 102(b) - Bashan

Claims 24-34 and 37-42 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Bashan. For a claim to be anticipated under 35 U.S.C. § 102(b), the reference must disclose each and every limitation in the claim. Applicants respectfully submit that Bashan does not disclose every claim element of the claimed invention as presently amended. Briefly, Bashan describes water-swellable polymers for fabricating tampons. (See Bashan, Col. 1, lines 28-33).

Specifically, regarding claim 24, Bashan does not disclose gel particles that expand when a temperature of a fluid in contact with the gel particles is below a phase transition temperature of the gel particles and that contract when the temperature of the fluid in contact with the gel particles is above the phase transition temperature of the gel particles. Further, regarding claim 42, Bashan does not disclose gel particles that absorb a fluid when a temperature of the fluid in contact with the gel particles is below a volume phase transition critical temperature of the gel particles and that expel the fluid when the temperature of the fluid in contact with the gel particles is above the volume phase transition critical temperature of the gel particles.

Bashan does not even suggest a motivation for the gel particles or tampons comprising gel particles to have temperature sensitive properties. Accordingly, Applicants respectfully submit Bashan fails to anticipate the present invention under 35 U.S.C. § 102(b). Applicants thus respectfully submit that claims 24 and 42 are in condition for allowance. Claims 25-41 depend directly from amended claim 24. For the above-mentioned reasons regarding claim 24, Applicants submit that these claims also are in condition for allowance.

6. Rejection of Claims 24-34 and 37-42 under 35 U.S.C. § 103(a) - Bashan

Claims 24-34 and 37-42 have been rejected under 35 U.S.C. § 103(a) as being obvious over Bashan. For the rejection under 35 U.S.C. § 103(a) to be proper, the reference alone or in combination with another reference must teach or suggest all of the claim limitations. For the same reasons stated above regarding claims 24 and 42, Applicants respectfully submit that Bashan does not teach or suggest every claim element of the invention as presently amended.

Bashan does not teach or suggest temperature sensitivity of gel particles. Bashan does not even suggest a motivation for the gel particles or tampons comprising gel particles to have

temperature sensitive properties. Applicants respectfully submit that Bashan does not teach or suggest every claim element of the invention as presently amended. Applicants thus respectfully submit that claims 24 and 42 are in condition for allowance. Claims 25-41 depend directly from amended claim 24. For the above-mentioned reasons regarding claim 24, Applicants submit that these claims also are in condition for allowance.

7. Rejection of Claims 24-34 and 37-42 under 35 U.S.C. § 102(b) – EP '753

Claims 24-34 and 37-42 have been rejected under 35 U.S.C. § 102(b) as being anticipated by EP '753. For a claim to be anticipated under 35 U.S.C. § 102(b), the reference must disclose each and every limitation in the claim. Applicants respectfully submit that EP '753 does not disclose every claim element of the claimed invention as presently amended. Briefly, EP '753 describes water absorbent structures for use as wound dressings. (See EP '753, Col. 1, lines 1-8).

Specifically, regarding claim 24, EP '753 does not disclose gel particles that expand when a temperature of a fluid in contact with the gel particles is below a phase transition temperature of the gel particles and that contract when the temperature of the fluid in contact with the gel particles is above the phase transition temperature of the gel particles. Further, regarding claim 42, EP '753 does not disclose gel particles that absorb a fluid when a temperature of the fluid in contact with the gel particles is below a volume phase transition critical temperature of the gel particles and that expel the fluid when the temperature of the fluid in contact with the gel particles is above the volume phase transition critical temperature of the gel particles. EP '753 does not even suggest a motivation for the gel particles or wound dressing comprising gel particles to have temperature sensitive properties.

Accordingly, Applicants respectfully submit EP '753 fails to anticipate the present invention under 35 U.S.C. § 102(b). Applicants thus respectfully submit that claims 24 and 42 are in condition for allowance. Claims 25-41 depend directly from amended claim 24. For the above-mentioned reasons regarding claim 24, Applicants submit that these claims also are in condition for allowance.

8. Rejection of Claims 24-34 and 37-42 under 35 U.S.C. § 103(a) – EP '753

Claims 24-34 and 37-42 have been rejected under 35 U.S.C. § 103(a) as being obvious over EP '753. For the rejection under 35 U.S.C. § 103(a) to be proper, the reference alone or in combination with another reference must teach or suggest all of the claim limitations. For the same reasons stated above regarding claims 24 and 42, Applicants respectfully submit that EP '753 does not teach or suggest every claim element of the invention as presently amended.

EP '753 does not teach or suggest temperature sensitivity of gel particles. EP '753 does not even suggest a motivation for the gel particles or wound dressings comprising gel particles to have temperature sensitive properties. Applicants respectfully submit that EP '753 does not teach or suggest every claim element of the invention as presently amended. Applicants thus respectfully submit that claims 24 and 42 are in condition for allowance. Claims 25-41 depend directly from amended claim 24. For the above-mentioned reasons regarding claim 24, Applicants submit that these claims also are in condition for allowance.

9. Rejection of Claim 35 under 35 U.S.C. § 103(a) – Kabra in view of Asher

Claim 35 has been rejected under 35 U.S.C. § 103(a) as being obvious over Kabra in view of Asher. For the rejection under 35 U.S.C. § 103(a) to be proper, the reference alone or in

combination with another reference must teach or suggest all of the claim limitations. As mentioned above regarding claim 24, neither Kabra nor Asher disclose, at least, a water permeable layer and gel particles disposed in the water permeable layer. Claim 35 depends directly from claim 24. For at least these reasons, Kabra or Asher, either alone or in combination, do not teach or suggest all of the claim limitations of claim 35. Applicants therefore submit that claim 35 is in condition for allowance.

10. Rejection of Claim 35 under 35 U.S.C. § 103(a) – Bashan or EP '753 in view of Itoh

Claim 35 has been rejected under 35 U.S.C. § 103(a) as being obvious over Bashan or EP '753 in view of Itoh. For the rejection under 35 U.S.C. § 103(a) to be proper, a reference alone or in combination with another reference must teach or suggest all of the claim limitations. While Itoh does describe temperature sensitive polymers, as mentioned above regarding claim 24, neither Bashan nor EP '753 teach or suggest temperature sensitivity of gel particles nor a motivation for the gel particles of Bashan or EP '753 to be temperature sensitive.

Applicants therefore respectfully submit that no motivation exists to combine either Bashan or EP '753 with Itoh. For at least these reasons, Kabra or Asher, either alone or in combination, do not teach or suggest all of the claim limitations of claim 35. Applicants therefore submit that claim 35 is in condition for allowance.

11. Rejection of Claim 36 under 35 U.S.C. § 103(a) – Bashan in view of Zadini

Claim 36 has been rejected under 35 U.S.C. § 103(a) as being obvious over Bashan in view of Zadini. For the rejection under 35 U.S.C. § 103(a) to be proper, a reference alone or in combination with another reference must teach or suggest all of the claim limitations. As

mentioned above regarding claim 24, Bashan does not teach or suggest temperature sensitivity of gel particles nor a motivation for the gel particles to be temperature sensitive. Further, Zadini also does not teach or suggest temperature sensitivity of a gel particle nor a motivation for the gel particles to be temperature sensitive.

Applicants therefore respectfully submit that for at least these reasons, Bashan or Zadini, either alone or in combination, do not teach or suggest all of the claim limitations of claim 36. Applicants therefore submit that claim 36 is in condition for allowance.

12. Rejection of Claim 36 under 35 U.S.C. § 103(a) – EP '753 in view of Peterson

Claim 36 has been rejected under 35 U.S.C. § 103(a) as being obvious over EP '753 in view of Peterson. For the rejection under 35 U.S.C. § 103(a) to be proper, a reference alone or in combination with another reference must teach or suggest all of the claim limitations. EP '753 does not teach or suggest temperature sensitivity of gel particles nor a motivation for the gel particles to be temperature sensitive. Further, Peterson also does not teach or suggest temperature sensitivity of gel particles nor a motivation for the gel particles to be temperature sensitive.

For at least these reasons, EP '752 or Peterson, either alone or in combination, do not teach or suggest all of the claim limitations of claim 36. Applicants therefore submit that claim 36 is in condition for allowance.

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CONCLUSION

In view of all of the foregoing reasons, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection and objection, and allowance of claims 24-42.

Respectfully submitted,

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